



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

October 1, 2021

BY ECF

The Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: **United States v. Robert Hadden,**
S1 20 Cr. 468 (RMB)

Dear Judge Berman:

The Government respectfully writes to update the Court as to the status of its ongoing responsiveness review pursuant to search warrants obtained for various electronic devices, as discussed in its letter to the Court of September 3, 2021 (Dkt. 121 (the "September 3 Letter")). Since the filing of the September 3 Letter, trial in this matter has been adjourned to March 21, 2022, and the defense has withdrawn its request to preclude the Government from offering at trial any responsive materials disclosed after September 3, 2021. (Dkt. 125 at 3-4). As discussed in greater detail below, although substantial progress has been made to date, the Government's responsiveness review remains ongoing.

As described in the September 3 Letter, the Government has been reviewing the contents of approximately 33 electronic devices (the "Devices"), containing in excess of 3 million data artifacts, pursuant to a series of search warrants. (Dkt. 121 at 1).¹ On April 5, 2021, the Government produced to the defendant forensic images of 26 of the Devices and informed the defense that they could inspect any of the Devices, including the Devices that could not be imaged and the Apple iBook, which contained child pornography. (*Id.* at 5).² The Government has continually informed the defense that they are free to inspect and review any of the Devices in person.

As set forth in the September 3 Letter, the process of reviewing the Devices for responsiveness has been complex and time-consuming, involving a privilege review; the technical process of reconstruction of deleted data, known as "data carving"; and the substantive review of the voluminous data from the Devices. (*See* Dkt. 121 at 2-3). Leading up to the September 3

¹ The search warrants date from August and September of 2020, as well as a new search warrant, issued on September 8, 2021, relating to additional subject offenses.

² The FBI was unable to create forensic images of the remaining six devices.

Letter, the Government identified for the defense those items it had identified as responsive to date and made available to the defense for inspection the partially reconstructed data it had been able to extract from the Devices. (*See* Dkt. 121 at 3-4).

Following the September 3 Letter, the Government has continued its review and made substantial progress on both the technical process of data carving and on the substantive review of the data for responsiveness. As described in the September 3 Letter, the FBI has continued to devote substantial resources to this review, which the case agent continues to prioritize. (*See* Dkt. 121 at 3). The Government has copied a substantial portion of the partially reconstructed data for the convenience of the defense, and has made all of the partially reconstructed data available for the defense's review. The Government has made rolling productions of materials it identified as responsive, including productions on September 9 and September 28, as well as allowing the defense to inspect responsive items identified on the Apple iBook. To date, the Government has identified a total of several thousands of artifacts on the Apple iBook, and several hundred files on the other Devices, as responsive.

The Government's responsiveness review is ongoing. The FBI estimates that the data carving portion of the review appears to be nearing completion, but new information revealed during the responsiveness review may lead to additional data carving. (*See* Dkt. 121 at 3 (describing data carving process)). The Government will continue to identify responsive materials promptly for the defense on a rolling basis, and will update the Court on or before November 1, 2021 as to the status of its review.

Respectfully submitted,

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